

United States District Court
Central District of California

United States of America
Plaintiff

Case Number
CR-04-1189(A)-CAS

v.

Gabriel Gonzalez
Defendant, Pro Se

Motion for Emergency Protective Order

Gabriel Gonzalez asks this honorable court to issue a protective order commanding the prison at FCI Forrest City to cease and desist its deliberate and intentional acts to harm him.

The prison's medical staff have told him they will no longer fill his prescription medication (Omeprazole) to treat his Gastro Esophageal Reflux Disease (GERD). Gonzalez was told he should purchase the prison's over-the-counter (OTC) medications and antacids from the commissary if he desired continued pharmaceutical treatment for his condition. He was not offered an alternative prescription medication or alternative replacement treatment for his chronic care condition. Gonzalez was told, however, that once his inmate account was depleted to less than \$6.00 for a consecutive six months would he then be given his prescription, or an alternative, by the pharmacy.

Gonzalez has been a chronic care patient for GERD for the past 10 years and has received regular prescriptions for Omeprazole (and Ranitidine until it was no longer effective) for the entire 5 years he has been assigned to FCI Forrest City. Curiously, subsequent to this court's ordered inquiry into this prison's treatment and care practices for Gonzalez' COVID-19 infection, the supplying and delivery of his medication has been refused beginning on or about 8/01/20.

Gonzalez contends that this new medical care regime is not derived from any medical basis. Instead, it appears to be based on his ability to pay, wherein treatment and pharmaceutical therapy is withheld as long as Gonzalez demonstrates he possesses funds which he could surrender, or until he demonstrates he has relinquished all his funds and that he remains in a state of destitution.

To further complicate this matter, Gonzalez is permitted to shop the prison's commissary once per month. (or generally, once every 3 weeks). at that time, he is allowed to purchase only a few days supply of antacids at \$10.95 per box. And since the prison remains on lockdown, Gonzalez is unable to maintain his job in the prison's law library to earn enough to pay for the allotment of antacids. This new pay-for-care regime appears to be designed to keep Gonzalez sick which would leave him particularly and expeditiously vulnerable to death under his current state and condition-specific exposure to the Coronavirus-rampant at the prison.

Gonzalez prays this court find cause to order his medication prescription, or a reasonable alternative, be returned or issued to him until he is medically cleared by an off-site physician to no longer require chronic care treatment, to find that the prison's current practice violative of the Constitution and federal laws governing medical care of prisoners, and that the prison refrain from reintroducing this regime without first having secured permission from this court to do so. Gonzalez also asks the court to grant him any other relief it deems appropriate and proper to protect him from this prison's deliberately harmful action towards him initiated in response to this court's recent probe.

Verification

I have read the foregoing motion for emergency protective order and hereby verify that the matters alleged herein are true, except as to matters alleged on

information and belief, and as to those, I believe them to be true and correct.

Executed at Forrest City, Arkansas on this 7th day of August, 2020.



Gabriel Gonzalez
Defendant, Pro Se

Certificate of Service

I certify under the penalty of perjury that the foregoing motion for emergency protective order was placed in the prison's internal mail system, postage pre-paid, for service upon this court via U.S. mail on this 7th day of August, 2020 to 312 North Spring Street Los Angeles, California 90022. Gonzalez asks this court's clerk to serve all other interested parties by electronic notification and to provide him with a stamped filed copy of this motion.



Gabriel Gonzalez
Defendant, Pro Se

TRULINCS 30515112 - GONZALEZ, GABRIEL - Unit: FOR-W-D

FROM: 30515112

TO: Low Health Services

SUBJECT: ***Request to Staff*** GONZALEZ, GABRIEL, Reg# 30515112, FOR-W-D

DATE: 08/02/2020 07:22:26 PM

To: P.A. Wingo

Inmate Work Assignment: Education

Ma'am,

I renewed my prescriptions for Omeprazole, Tamsulosin, Methimazole, Latanaprost, and Coal Tar Shampoo last month. They do not appear on the computer for reorder as they have in the past. Why have my medications been discontinued? I have been a chronic-care GERDS patient for about 10 years now and need my medication for this as well as my thyroid medication and the others. Please correct the discontinuance of my medications as soon as possible. I am also submitting a sick-call request in the morning. Thank you for your prompt attention to this matter.

Gabriel Gonzalez

#30515-112

P.O. Box 9000-Low

Forrest City, Arkansas 72336

TRULINCS 30515112 - GONZALEZ, GABRIEL - Unit: FOR-W-D

FROM: 30515112
TO: Wynne Unit Team
SUBJECT: ***Request to Staff*** GONZALEZ, GABRIEL, Reg# 30515112, FOR-W-D
DATE: 08/03/2020 08:05:48 AM

To: Warden DeWayne Hendrix
Inmate Work Assignment: Education

Warden Hendrix,

This morning I was informed that the prison's pharmacy has implemented its own policy which requires prisoners to purchase their prescription medications from the commissary, despite those prescriptions being a necessary part of medical treatment recommended by the physician and regardless of whether the prisoner (patient) is under chronic care treatment. I am affected by this new policy because I am a 10 year chronic care patient and require a regular allotment of Omeprazole to treat my Gastro esophageal Reflux Disease. Without this medication, my condition will worsen and will result in Barret's Esophagus-a cancerous condition caused by the acidic erosion of the esophageal lining from lack of care. This is a dangerous policy to allow, especially at this time, when prisoners are only able to shop at the commissary once per month and there are no inmate jobs which will allow for an opportunity to earn funds to pay for the high-priced medications at the commissary. Even having monthly access to the commissary, current restrictions afford only the ability to purchase a few days worth of medications. At least before the lockdown a prisoner could purchase medications on any day the commissary was open. Now, however, that is no longer an option and will subject me, and every other prisoner here, to an elevated risk of harm from lack of access to these necessary pharmaceuticals. I fear that this new policy will exacerbate my condition and cause me to endure a further weakened physical condition creating further susceptibility to complications with contraction of the Corona virus, as well as other medical problems. I have not been physically examined to determine the appropriateness of having my medications withheld for payment, nor have I been given any alternatives such as provision of a special medical diet to curb the effects of my disease. I ask that you intervene in this matter and provide me with my necessary prescription medication so that I can continue with my medical treatment as previously prescribed.

Respectfully,

Gabriel Gonzalez
#30515-112
P.O. Box 9000-Low
Forrest City, Arkansas 72336

TRULINCS 30515112 - GONZALEZ, GABRIEL - Unit: FOR-W-D

FROM: 30515112

TO: Low Health Services

SUBJECT: ***Request to Staff*** GONZALEZ, GABRIEL, Reg# 30515112, FOR-W-D

DATE: 08/04/2020 09:14:51 PM

To: Dr. Hari Kapur

Inmate Work Assignment: Education

Dr. Kapur,

Several days ago, my medication prescription did not appear on my electronic e-mail notice. I inquired about my GERDS medication and was told that medical services was not going to issue it to me despite your prescription that I receive it. I was told that if I wanted to continue treatment for my GERD then I would be required to buy it from commissary. I was also told that if I could maintain an account balance of less than \$6.00 per month for six months that the pharmacy would then start giving me my Omeprazole again. Would you please advise me as to why my medication is being withheld? I have been a chronic care GERD patient for 10 years and have been repeatedly assessed and prescribed this medication to treat my condition throughout this time period. Please correct this error. It will be very dangerous for me to be without it. I am afraid I will develop throat cancer from the effects of my disease. I can only shop once per month and can only buy a few days supply of the antacids they have due to medication sales limitations. What do I do when I run out? I won't be able to buy more until the next month. Since there are no inmate jobs now, because of the lockdown, I am not earning any money to be able to purchase these high priced medications. The antacids sell for \$10.95 per box which will last about a week and a half. Please remedy this error so that I can continue to receive my medication without further interruption. I am already experiencing difficulty with my disease and believe it will lower my resistance to fighting off the Corona virus. Thank you for your prompt attention to this very important matter.

Gabriel Gonzalez

#30515-112

P.O. Box 9000-Low

Forrest City, Arkansas 72336

TRULINCS 30515112 - GONZALEZ, GABRIEL - Unit: FOR-W-D

FROM: 30515112

TO: Low Health Services

SUBJECT: ***Request to Staff*** GONZALEZ, GABRIEL, Reg# 30515112, FOR-W-D

DATE: 08/05/2020 01:11:40 PM

To: Health Services Administrator Poyner
Inmate Work Assignment: Education

HSA Poyner,

I am seeking your intervention in the summary denial of my prescription medication. On or about 8/01/20 the prison's pharmacy has refused to honor my prescription for Omeprazole. I have been a GERD patient for 10 years and have received my prescription consistently while here since 2015. Now I am told that I must purchase antacids from the commissary until such time as my inmate account reaches a balance below \$6.00 per month for 6 consecutive months. I believe this decision to withhold my medication to be based on my ability to pay and has no medical foundation. I am unable to purchase enough medication to see me through the 3-4 week time period between shopping days and I suffer greatly from not having regular medications. Please provide me with reinstatement of my prescription medication. I have not been seen by Dr. Kapur, or any other doctor or Physician's Assistant to clear me for this deprivation. Please help.

Gabriel Gonzalez

#30515-112

P.O. Box 9000-Low

Forrest City, Arkansas 72336

TRULINCS 30515112 - GONZALEZ, GABRIEL - Unit: FOR-W-D

FROM: 30515112

TO: Low Health Services

SUBJECT: ***Request to Staff*** GONZALEZ, GABRIEL, Reg# 30515112, FOR-W-D

DATE: 08/06/2020 12:41:59 PM

To: Chief Pharmacist or Supervisor

Inmate Work Assignment: Education

Chief Pharmacist or Supervisor,

On or about 8/01/20 the prison adopted a practice of denying me my prescription medication to treat my GERD condition. I have been offered no alternative or replacement medication, in place of my Omeprazole, and have received no examination to ascertain the condition or seriousness of my current state. Since I have been without medication for several weeks now I am experiencing constant burning in my throat and many other problems associated with my disorder. If I am required to purchase my antacids from the commissary I need to remind you that I am unable to purchase enough medication to last through the weeks between shopping days. Also, there are no inmate jobs, due to the lockdown, that will allow me to earn any funds to pay for my chronic care medications. I ask that you please issue me one of the many alternative Proton-pump inhibitor medications available as an alternative in order to prevent further pain and injury. I also ask you to advise me as to the likelihood that my untreated condition will make me more susceptible to complications of the COVID-19 virus. Thank you for your prompt attention to this very important matter.

Gabriel Gonzalez

#30515-112

P.O. Box 9000-Low

Forrest City, Arkansas 72336

TRULINCS 30515112 - GONZALEZ, GABRIEL - Unit: FOR-W-D

FROM: 30515112

TO: Low Health Services

SUBJECT: ***Request to Staff*** GONZALEZ, GABRIEL, Reg# 30515112, FOR-W-D

DATE: 08/07/2020 07:39:23 AM

To: Dr. Hari Kapur

Inmate Work Assignment: Education

Dr. Kapur,

I sent you an electronic message a few days ago explaining the situation with my GERD medication. I have not yet received your response. I have been without medication for a few weeks now and am experiencing some painful symptoms from not being treated. Would you please prescribe me any of the other proton pump inhibitor medications as a replacement for the Omeprazole that I am no longer being given? Also, a review of some recent pages of my medical file show that you have recorded me as having a clinical encounter at health services with you regarding my having tested positive for Corona virus. In my records you have referred to me as 'Inmate Wright' and have said that I deny having symptoms. It is my belief that you have my file confused with someone who is not me. I have not been consulted or medically examined for my weaknesses, respiratory problems, memory or cognitive problems or any other problems normally indicative of symptomatic COVID-19. I have sent you, and others, several notices requesting examination and treatment for my condition. I have never been to medical to see you nor have I been given any imaging examinations or treatments for my infection. I have had moderate symptoms and have pled for your assistance but have received no response. Much time has passed and I expected to have been examined by you by now. Please correct my medical file and eliminate your findings from 'Inmate Wright' and your conclusions that I deny any complaints. Thank you.

Gabriel Gonzalez

#30515-112

P.O. Box 9000-Low

Forrest City, Arkansas 72336

**Federal Correctional Complex
Forrest City, Arkansas**

Sick Call Request/Triage and Medication Refill Form

Formulario para obtener una cita medica y para rellenar medicinas

7:00 am -7:30 am

Do not place the sick call request in the institution mail.

Failure to complete this form or follow any procedure delays processing your sick call complaint.

Llene este formulario completamente y traigalo al Servicio de Salud para ponerlo en la caja designada para sick call entre las 7:00 a.m. y 7:30 a.m. No ponga este pedido para cita medica en el correo de la institucion. No siguiendo este procedimiento o llenando este formulario incompletamente, tardara su cita medica.

(PLEASE PRINT)

NAME: GABRIEL GONZALEZ (Nombre)

REG. No.: 30515-112 (Numero de Registro)

Signature: [Signature] (Firma) UNIT: W/D (Unidad)

Today's Date: 8/03/20 (Fecha de Hoy)

What is your medical problem? (Cual es su problema medico?)

When did your problem begin or how long have you had the problem? (Cuando comenzo su problema/ Cuanto tiempo ha tenido su problema?)

CHRONIC CARE 10 YEARS

When were you last seen for your problem? (Cuando fue la ultima vez que lo vieron por su problema?)

History of medical problems? (Circle)

Diabetes
Immunocompromised

Hypertension

Cardiac Disease
Mental Health Problems

Asthma

Por cuanto tiempo tiene este problema? (Circule uno)

Diabetes
Immunocomprometida

Hypertension

Enfermedad Cardiac
Enfermedad Mental

Astma

Are you taking medicine? (Circle one) YES NO (Estas tomando medicina - Circule uno) (Si) (No)

Do you Need Refills? (Circle one) YES NO (Necesitas rellenar tus medicinas?) (Si) (No)

If yes, what is the name(s) of the medication(s) you need refilled? OMEPRAZOLE, TAMUSULOSIN, METHIMAZOLE

Qual es el nombre de las medicinas que necesita rellenar? LATANAPROST, COAL TAR SHAMPOO

Have you had an injury? YES NO
(Le ha lesionado?) (Si) (No)

If YES, do you have pain? (Circle one) YES NO
(Tienes dolor?) (Circule Uno) (Si) (No)

If yes, how long have you had pain: _____ If YES, where is your pain? (Si contestas Si, donde estas su dolor?) _____
(Por cuanto tiempo?)

If yes, rate your pain (circle one) 1 2 3 4 5 6 7 8 9 10
(Como quantifica su dolor (circule uno) (0- No pain, 1-2 Mild, 3-4 Discomfort, 5-6 Moderate, 7-8 Severe, 9-10 Worst pain possible)
(0- No dolor, 1-2 Poco dolor, 3-4 Leve dolor, 5-6 Dolor moderado, 7-8 Dolor severo, 9-10 Peor dolor)

All non-medical problem requests including copies of Medical Records should be sent by regular Cop-Out through the institutional mail system.

(Todos los problemas que no son de indole medicos, incluyendo copias de su record medico, seran dirigidos atravez de un Cop-Out y puesto en el correo de la institucion)

Do not write below this line
(No escriba abajo de esta linea)

TO BE COMPLETED BY HEALTH SERVICES STAFF ONLY.

Date Scheduled to be Seen: _____

HSU Staff Signature: _____

Health Care Provider

Comments: _____

DOCUMENTATION OF INFORMAL RESOLUTION ATTEMPT

Bureau of Prisons Program Statement No. 1330.13, Administrative Remedy Program, (December 22, 1995), requires, in most cases, that inmates attempt informal resolution of grievances prior to filing a formal written complaint. This form shall be used to document your efforts towards informally resolving your grievance.

Inmate's Name: Gabriel Gonzalez Date: 8/05/20

Register Number: 30515-112 Unit: W/D

Specific Complaint and Requested Relief: This grievance is made to prevent foreseeable harm and injury caused directly by the prison's newly initiated practice of withholding prescription medication premised upon reasons of one's ability to pay, and not providing an alternative pharmaceutical as a viable replacement. I have been a chronic care GERD patient for 10 years and have been provided Omeprazole as my prescription pharmaceutical treatment for my disease. On 8/01/20 the prison's pharmacy has refused to fill my prescription and have directed me to buy antacids from commissary. Medical staff, however, have told me they would fill my prescription if I deplete my trust fund account to \$6.00 or less for 6 consecutive months. I believe this practice to be malicious, violative of law, and ultimately lethal. I ask to have my prescription, or a reasonable alternative medication, reinstated or replaced immediately.

Efforts Made By Inmate to Informally Resolve Grievance (be specific):

I have made several requests for relief to medical staff using the electronic notification system. I have not received any responses. I have also sought relief through verbal communication of my needs at pill-line and through sick call procedures. All have met with negative results.

Counselor=s Comments:

Please see attached From Mr. Paynor.

[Signature] 8-7-20
Correctional Counselor=s Review Date

[Signature] 8-7-20
Unit Manager=s Review Date

DATE BP-9 was ISSUED _____

DOCUMENTATION OF INFORMAL RESOLUTION ATTEMPT

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Register Number: 30515-112 Unit: W/D

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Efforts Made By Inmate to Informally Resolve Grievance (be specific): _____

I have made several requests for relief to medical staff using the electronic notification system. I have not received any responses. I have also sought relief through verbal communication of my needs at pill-line and through sick call procedures. All have met with negative results.

Counselor's Comments:

Per pharmacy you do not meet policy requirements and have been referred to commissary. You purchased it from commissary on 8/7/20. R. Poyner AHSA 8/7/20
[Signature] 8-7-20 R. POYNOR, AHSA
FCC FORREST CITY [Signature] 8-7-20

Correctional Counselor's Review Date

Unit Manager's Review Date

DATE BP-9 was ISSUED _____

30515-112

Gabriel Gonzalez
PO BOX 9000:Low
Federalcorrectionalcomplex
Forrest CITY, AR 72336
United States

30515-112

Distcourt Clerk
312 N Spring ST
Room G-8
LOS Angeles, CA 90012
United States

WD

NIXIE 910 7E 1 7208/21/20

RETURN TO SENDER
NOT DELIVERABLE AS ADDRESSED
UNABLE TO FORWARD

BC: 72336900000 2347N234190-00737



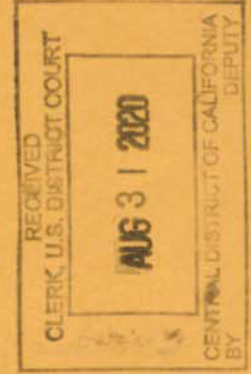
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CAS

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
OFFICE OF THE CLERK
255 E. TEMPLE STREET ROOM 180
LOS ANGELES, CALIFORNIA 90012



RECEIVED
UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
OFFICE OF THE CLERK
255 E. TEMPLE STREET ROOM 180
LOS ANGELES, CALIFORNIA 90012

FEDERAL CORRECTIONAL INSTITUTION MEDIUM

DATE 8/26/20

THE ENCLOSED LETTER WAS PROCESSED THROUGH SPECIAL MAILING
RE: "FOR FURNISHING TO YOU, THE LETTER HAS BEEN NEITHER
RECEIVED NOR RETURNED TO THE SENDER. IF THE WRITER RAISES A QUESTION OR PROBLEM OVER
THE LETTER, YOU MAY WANT TO RETURN THE LETTER TO THE SENDER FOR
THE WRITER'S EMPLOYER'S INFORMATION. PLEASE RETURN THE ENCLOSURE TO THE
ADDRESS ABOVE.

30515-112
Gabriel Gonzalez
PO BOX 9000:Low
Federalcorrectionalcomplex
Forrest CITY, AR 72336
United States